

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JOHN REYNA,

Plaintiffs,

vs.

GUSTAVESON, et al.,

Defendants.

1:20-cv-01315-GSA-PC

**ORDER FOR CLERK TO RANDOMLY
ASSIGN A UNITED STATES DISTRICT
JUDGE TO THIS CASE**

AND

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
PROCEED ONLY WITH PLAINTIFF'S
MEDICAL CLAIM AGAINST
DEFENDANT DR. GUSTAVESON, AND
THAT ALL OTHER CLAIMS AND
DEFENDANTS BE DISMISSED**

OBJECTIONS, IF ANY, DUE IN 14 DAYS

John Reyna ("Plaintiff") is a Kings County Jail inmate proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on September 14, 2020. (ECF No. 1.)

The Complaint names as defendants Dr. Gustaveson, Kings County, and Kings County Jail (collectively, "Defendants"), and brings claims for inadequate medical care under the Fourteenth Amendment, retaliation under the First Amendment, and negligence.

1 The court screened the Complaint and found that it states a cognizable claim for
2 inadequate medical care under the Fourteenth Amendment against Defendant Dr. Gustaveson,
3 but no other claims against any Defendant. (ECF No. 6.) On February 24, 2022, the court issued
4 a screening order requiring Plaintiff to either (1) file a First Amended Complaint, or (2) notify
5 the court that he is willing to proceed only with the medical claim against Defendant Dr.
6 Gustaveson found cognizable by the court. (Id.)

7 On March 7, 2022, Plaintiff notified the court that he is willing to proceed only with the
8 medical claim found cognizable by the court. (ECF No. 15.)

9 Accordingly, **IT IS HEREBY ORDERED** that the Clerk of Court randomly assign a
10 United States District Judge to this case.

11 and

12 Based on the foregoing, it is **HEREBY RECOMMENDED** that:

- 13 1. This action proceed only on Plaintiff's claim against Defendant Dr. Gustaveson
14 for inadequate medical care in violation of the Fourteenth Amendment;
- 15 2. All remaining claims and defendants be dismissed from this action;
- 16 3. Plaintiff's claims for retaliation under the First Amendment and negligence be
17 dismissed from this action based on Plaintiff's failure to state any claims upon
18 which relief may be granted;
- 19 4. Defendants Kings County Jail and Kings County be dismissed from this action
20 based on Plaintiff's failure to state any claims against them upon which relief may
21 be granted; and
- 22 5. This case be referred back to the Magistrate Judge for further proceedings,
23 including initiation of service of process.

24 These Findings and Recommendations will be submitted to the United States District
25 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
26 fourteen (14) days after the date of service of these Findings and Recommendations, Plaintiff
27 may file written objections with the Court. The document should be captioned "Objections to
28 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file

1 objections within the specified time may waive the right to appeal the District Court's order.
2 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 IT IS SO ORDERED.
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5 Dated: March 9, 2022

/s/ Gary S. Austin

6 UNITED STATES MAGISTRATE JUDGE
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